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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) <b>200302285-1</b>	
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		First Named Inventor <b>Michael C. SANDERS</b>	
		Art Unit <b>2144</b>	Examiner <b>Tam T. Phan</b>
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.  This request is being filed with a notice of appeal.  The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. <b>44,144</b> Registration number _____ <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		 Signature <b>Jonathan M. Harris</b> Typed or printed name <b>(713) 238-8000</b> Telephone number <b>October 27, 2005</b> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below".			
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Michael C. SANDERS	§	Confirmation No.:	8927
		§		
Serial No.:	10/020,809	§	Group Art Unit:	2144
		§		
Filed:	12/21/2001	§	Examiner:	Tam T. Pham
		§		
For:	Independent Server	§	Docket No.:	200302285-1
	Diagnostic Port	§		

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Date: October 27, 2005

Sir:

Applicant hereby submits this Pre-Appeal Brief Request for Review in connection with the above-identified application. A Notice of Appeal is filed concurrently herewith.

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**Pre-Appeal Brief dated October 27, 2005**  
**Reply to final Office action of July 28, 2005**

### **REMARKS/ARGUMENTS**

Applicant has received the final Office Action dated July 28, 2005, in which the Examiner rejected all pending claims as obvious over the combination of Fung (U.S. Pat. 6,859,882) in view of Kimball (U.S. Pat. 6,028,984) and also over the combination of Layton (U.S. Pat. 6,483,709) in view of Gill (U.S. Pat. 5,388,032) and Kimball. As explained below, Applicant argues that the rejections are based upon errors in fact made by the Examiner and that one or more claim elements are missing from the cited art.

#### **I. THE OBVIOUSNESS REJECTION BASED ON FUNG IN VIEW OF KIMBALL**

Claim 1 is directed to a "computer server" that requires, among other features, a "server management device coupled to the CPU...that is configured to control sever management architecture," front and rear network ports and a switch. The switch is required by claim 1 to establish a communications link between the "rear network port and said server management device when no remote console is connected to said front network port, but upon connecting the remote console to said front network port, said switch automatically establishes said communications link between said front network port and said server management device."

The Examiner stated that Figure 1 and col. 6, lines 44-57 and col. 7, lines 31-47 of Fung disclose a computer server comprising the claimed "server management device." Figure 1 shows multiple server modules 54 and col. 6, lines 44-57, mentions the server modules 54. However, Figure 1 and col. 6 do not disclose that the server modules 54 include a "server management device" as required by claim 1, that is, a server management device that coupled to the server's CPU and is used to control the server's management architecture. The cited passage at col. 7 also does not disclose a computer server as comprising a "server management device" as claimed.

The Examiner also stated that col. 28, lines 27-47, col. 29, lines 37-46, and col. 30, lines 12-21 of Fung disclose a front network port located at a rear surface of the server. Lines 27-47 of col. 28 disclose that there is "an Ethernet Port on

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the Rear Panel" and "an Ethernet Port internal to the Virgo ISSU System Chassis" and thus the existence of a rear port and an internal port. Lines 37-46 of col. 29 mention "a DB9 or other connector at the rear of the system." Lines 12-21 of col. 30 disclose that the "Management Module has three 10/100 Full Duplex Ethernet Ports... . There is an Ethernet Port on the rear panel of the system 102... . The other two ports connect to the two internal Switch Modules. Applicant does not find any teaching in Fung of a computer server that comprises both a front network port and a rear network port as required by claim 1.

Kimball does not solve either of the above-identified deficiencies of Fung. Kimball does not disclose a computer server comprising a server management device as claimed nor a computer server having a front network port in addition to a rear network port. Further, because Kimball does not disclose a server management device, Kimball cannot be said to disclose a switch that provides a communications link to a server management device as required by claim 1. For any or all of the preceding reasons, claim 1 and its dependent claims are allowable over Fung in view of Kimball.

Independent claims 11 and 18 and their dependent claims are allowable over Fung in view of Kimball for much the same reasons as articulated above regarding claim 1.

## **II. THE OBVIOUSNESS REJECTION BASED ON LAYTON IN VIEW OF GILL AND KIMBALL**

The Examiner conceded that Layton does not disclose a "front network port" and a "switch" as required by claim 1. Instead, the Examiner allegedly found a teaching of a computer server having a "front network port" in Gill. Specifically, the Examiner referred to Gill's Figures 4 and 12 and col. 4, line 65 through col. 5, line 10, col. 6, lines 26-30, and col. 9, lines 9-25, for disclosure of a front network port. These portions of Gill, however, do not support the Examiner's conclusion. For example, Figures 3, 4 and 12 of Gill show a computer monitoring unit 100 attached to a rack. The computer monitoring unit 100 is slid into the rack (see Fig. 3) when not in use. When, a user desires to use the computer monitoring unit 100 to monitor the status of one of the ten computers 332-350 in the rack

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(see Fig. 12), the monitoring unit housed in the rack is slid out of the rack as shown in Figure 4. Gill simply does not disclose a computer server having a front network port as required by claim 1.

The Examiner concluded that neither Layton nor Gill discloses the "switch" as claimed. Instead, the Examiner turned to Kimball which discloses a switch subsystem 300. The switch subsystem 300 is used to connect a computer to either a wired network 350 or a wireless modem 340. Gill discloses a "user input device such as a keypad or rotary switch" that is used by an operator to "select the computer within the equipment rack that requires monitoring." Col. 4, line 65 through col. 5, line 3. Gill's user input device is shown in Figure 4 as keypad 124. The Examiner's argument seems to be that it would have been obvious to replace Gill's user input device (switch) with the switch subsystem 300 of Kimball. However, doing so would defeat the intended functionality of Gill's user input device. Gill's user input device permits a user to manually select a desired computer to monitor whereas Kimball's switch subsystem 300 automatically connects a computer to a wired network or a wireless modem without human input. Layton has no teaching of a computer server as having both front and rear network ports as claimed (which establishes communications to either the front or rear network port), and thus it would not have been obvious to add Kimball's switch to Layton's system.

Independent claims 11 and 18 and their dependent claims are allowable over Layton in view of Gill and Kimball for much the same reasons as articulated above regarding claim 1.


### **III. CONCLUSION**

Applicant respectfully requests reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including

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fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

  
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